

MINUTES

MONTANA SENATE 58th LEGISLATURE - REGULAR SESSION

COMMITTEE ON FINANCE AND CLAIMS

Call to Order: By **CHAIRMAN TOM ZOOK**, on January 22, 2003 at 5:00 P.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Tom Zook, Chairman (R)
Sen. Bill Tash, Vice Chairman (R)
Sen. Keith Bales (R)
Sen. Gregory D. Barkus (R)
Sen. Edward Butcher (R)
Sen. Mike Cooney (D)
Sen. John Esp (R)
Sen. Royal Johnson (R)
Sen. Bob Keenan (R)
Sen. Rick Laible (R)
Sen. Bea McCarthy (D)
Sen. Linda Nelson (D)
Sen. Trudi Schmidt (D)
Sen. Debbie Shea (D)
Sen. Corey Stapleton (R)
Sen. Emily Stonington (D)
Sen. Jon Tester (D)
Sen. Joseph (Joe) Tropila (D)

Members Excused: Sen. John Cobb (R)

Members Absent: None.

Staff Present: Prudence Gildroy, Committee Secretary
Taryn Purdy, Legislative Branch

Please Note:

Audio-only Committees: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing & Date Posted: SB 115, 12/30/2002; SB 128,
12/30/2002
Executive Action: None

HEARING ON SB 115

Sponsor: SEN. DALE MAHLUM, SD 35, Missoula

Proponents: Dave Gibson, Governor's Office Economic Opportunity
Steve Holland, Director, Montana Manufacturing Center
Web Brown, Montana Chamber of Commerce
Larry Larson, Missoula
Betty Currie, Beartooth RC&D, Joliet
Mr. Lu, MSE Technology Application Inc.
Tyler Duncan, Executive Director, Montana Cooperative Development Center
Dick Kay, President and CEO of Missoula Area Economic Development Corporations
Charles Brooks, Billings Chamber of Commerce and Big Sky Economic Development Authority
Alicia Bradshaw, Executive Director, Gallatin Development Corporation
Travis Wright, Director, Small Business Development Center, Gallatin Development Corporation
Ross Johnson, Director, Small Business Development Center, Helena
Evan Barrett, Executive Director, Butte Development Corporation
Keith Colbo, Montana Ambassadors
Andy Poole, Administrator Business Resources Division, Department of Commerce

Opponents: None

Opening Statement by Sponsor:

(Note: There is a gap in the tape of 3.4 min. during SEN. MAHLUM'S testimony)

SEN. DALE MAHLUM, SD 35, Missoula opened on SB 115, a bill to extend funding for research and commercialization. He advised Montana was in the top five states for new business start up per capita. Montana has the highest small business ownership in the United States--almost 20% of the state labor force is in small business ownership and the state ranks 4th in the US in women's business ownership as a percentage of the labor force. He wanted to maintain or increase those statistics.

Proponents' Testimony:

Dave Gibson, Governor's Office Economic Opportunity, stated SB 115 was a simple bill intended to continue the history of the statutory investments started under the administration of former **Governor Mark Racicot**. The bill sends the signal to the people of the state and the business community in particular that Montana is committed to long term economic development in our state. These programs are integral to that effort. He explained how the programs fit into a consistent theme and strategy. He cited the *Roadmap to a New Economy* which outlines six major fundamental themes--including clusters or getting businesses to work together, workforce, technology, organization, marketing and business climate. The clusters and workforce issues are addressed with other legislation and other policies. Technology, organization, marketing of the state and business climate are integral to that effort. He advised in order to raise workers' wages, you effect the technology they use and the workers' skill level. The **Small Business Innovative Research Program** contributed to grants that led to almost \$12 million of research in small businesses that are driving and creating innovation in our economy in the last year. Of the 37 technology grants awarded to small businesses, half were facilitated by the state's SBIR program. Montana ranks 36th in the Milliken Index of Innovation and Economy. The shining star is the awards per capita are in the top quartile. The **Certified Communities Program Small Business Development Centers** are funded in the bill and are the mechanism to drive economic development at the local level. He noted that 2.7% of our gross state product is exports and the national average is 5%. He advised if we don't market this state in a coherent way outside the borders of Montana we can never expect to participate in the global economy. The **Foreign Trade Promotion Office** is the best vehicle to drive that marketing ability for all local businesses outside of this country. Montana has half the national average in manufacturing jobs and low wages result, he contended. Manufacturing jobs in the state pay \$30-35,000 a year on average. The **Manufacturing and Extension Center** is about the only program in the state that drives innovation in the manufacturing business. He stated that we have no high density--there are a lot of businesses spread out over a huge state. The **Center** addresses common issues in manufacturing. He reasoned manufacturing jobs would be needed to turn Montana's economy around. He reiterated the programs are an integral part of a consistent strategy along some core themes.

Steve Holland, Director, Montana Manufacturing Center, testified there were just over 2000 diverse manufacturers spread across the state and the wood products industry is the largest single sector within manufacturing in the state. Manufacturing produces about \$4.5 billion revenue in Montana and employs about 28,000 workers, who are paid about \$900,000--about \$32,000 a year on average.

Most Montana manufacturers are small with few employees. The **Manufacturing Center's** mission is to support those business to compete and be successful. Since its creation in 1976, the center has served over 400 manufacturers delivering more than 850 projects. In the last three years, they've had about 90 clients and about 175 products in the agricultural and forest products groups. The center has six experienced field engineers in five offices around the state. The budget is about \$1.1 million of which about half comes from a federal grant from the National Institute of Standards and Technology and a program called the Manufacturing Extension Partnership. For this year, they have a grant of \$115,000 from Workforce Investment Act funds through the Department of Commerce and they will receive about a third of a million dollars in client fees. He contended that \$200,000 in funding from the legislature allows for matching federal funds. Congress created the program and mandated it be accountable and a measurement system was established for the impact on the federal economy. The information is given to the **Bureau of Business and Economic Research, University of Montana**. In last two years, clients have reported \$22 million in increased sales as a result of the center's activities and also reported 78% increased competitiveness, and 60% improved profitability. About a third made investments in technology and half made significant investments in training workers. In Montana, 328 manufacturing jobs were added in the two year period and an additional 63 jobs were retained which probably created another 335 jobs in other sectors. It is estimated that about \$450,000 comes back to the state's treasury each year. He passed out a brochure on the Center. **EXHIBIT(fcs13a01)**

Web Brown, Montana Chamber of Commerce, testified he started his not for profit career with the **Sander's County Economic Development Corporation** in northwestern Montana. He left the timber business in order to help other businesses with what he saw as needs within the county. A concentrated and concerted effort is needed throughout the state, he reasoned. The Chamber supported the **Office for Economic Opportunity** in past sessions and has worked closely with **Dave Gibson** and also the folks in the Montana Economic Developers Association. A Montana Manufacturing Council was formed to help that industry grow and they work closely with the **Montana Manufacturing Extension Center**. He urged support for the bill and expressed the support of the Kalispell, Bozeman, Great Falls Areas Chambers of Commerce for the bill.

Larry Larson, Missoula, representing himself, testified he was partial owner of **Quality Products of Montana**, a Montana native and graduate of the **University of Montana**. He worked for Thompson Dental Manufacturing in Missoula for a number of years

and they developed an innovative product in the sterilization field--a multiple use sterilization pouch. In niche markets it is well received and potentially a high value item. After working on the project for four years and having trouble finding material that met the parameters of sterilization, he worked with **Craig Wurst** from the **Montana Extension System** who was able to find the material for them. Currently, their major markets are in the far East, Europe and Canada. They employ four people because they were able to find the material. **Craig** and the **University of Montana** helped them obtain their CE mark. They have applied for the Montana SBIR program and received a phase 0 grant last August and will be applying for SBIR Phase I on April 1, 2003. He attributed that to **Linda Brader** and her group and a large part of the existence his company is due to the interaction with **Craig** and the **University of Montana**, he advised.

Betty Currie, Beartooth RC&D, Joliet, testified they were the lead development organization for five certified communities in south central Montana. These communities were certified prior to the funding of this program. With the funding they have been able to do background work for business inquiries but the most important result of the funding is the enthusiasm of the communities, the city councils and the business people. One example was Prairie Cabinet Company in Bridger, bringing eight jobs to Bridger--a direct result of cooperation of local, state, and federal government, private and non-profit sectors. Crucial to the transaction was the involvement of **Certified Communities** of the **Montana Manufacturing Extension Center** and the **Small Business Development Center**. The funding until 2010 is crucial, she contended.

Mr. Lu, MSE Technology Application Inc., a small business in Montana. He has a doctorate degree in aerospace engineering and has been with the firm over 18 years. His current job is staff engineer and program manager. Activities in the **Small Business Innovative Research Program** have helped MSE to achieve several milestones with federal contracts. They currently have 13 proposals pending worth up to \$1.5 million. SBE Office outreach activities have helped and will continue to help small Montana companies compete in the federal process. The office has also offered advice, proposal reviews, technical assistance, and seminars. He strongly supported continued funding of the SBR program and SB 115.

Tyler Duncan, Executive Director, Montana Cooperative Development Center, stated support for the bill. They partner on many projects with the **Montana Manufacturing Extension** and the **Small Business Development Centers**. They requested to be included in

the legislation as they were in the original legislation, HB 1 in 2000. He read from his written testimony. **EXHIBIT(fcs13a02)**

{Tape: 1; Side: B}

Dick Kay, President and CEO of Missoula Area Economic Development Corporation, spoke in support of the bill. **MAEDC** consists of about 80 businesses in the Missoula area, as well as the City/County, the University, the Chamber of Commerce, Airport Authority and the Public Schools. He shared a football analogy-- it is the end of the first quarter, a team was put on the field across the state in May, 2000 and is now going to withdraw. The bill would keep us in the game for four quarters and give us a chance to score and go ahead. A little state money is invested in an incredible network of professionals in urban and rural areas across the state that work very hard with private business to help them create jobs that will create more revenue. He advised staying in for all four quarters and seeing what the score is.

Charles Brooks, Billings Chamber of Commerce and Big Sky Economic Development Authority, urged support of the legislation.

Alicia Bradshaw, Executive Director, Gallatin Development Corporation, testified they were supported by private businesses within the Gallatin County area. She read from written testimony. **EXHIBIT(fcs13a03)**

Travis Wright, Director, Small Business Development Center, Gallatin Development Corporation, testified in favor of the bill. **EXHIBIT(fcs13a04)**

Ross Johnson, Director, Small Business Development Center, Helena, serves clients in Lewis and Clark, Broadwater, and Meagher Counties. Several of his clients are concerned about the future of the funding of the program and he presented their letters to the secretary. **EXHIBIT(fcs13a05)**

Evan Barrett, Executive Director, Butte Development Corporation, and Legislative Director for Montana Economic Developers Association. He stated the programs really work and help make things happen with businesses at the local level--they are important economic development expenditures and part of the solution, not part of the problem. Every job created pays an income tax, every corporation that makes a profit sends money into the state coffers, and every plant or building built puts property taxes in the tax base. Economic development is the way out of the fiscal dilemma. When the statutory appropriations were first created in 1999, the funding was found to be unconstitutional and the special session in 2000 had to fix it.

The ideas came from the grassroots. The bill was introduced by former **REP. CARL OHS**, it had a ten year statutory appropriation and that ten years was dropped to five. They all knew that was wrong at the time, but they had to get it through. SB 115 extends it back to the ten years for which it was originally intended. We did not get into our economic problems overnight and we will not get out of them overnight. Every one of these programs are needed along with the hard work and help of the legislature to set a better business climate and those at the local level who work day in and day out to create growth. They all have to come together and there needs to be the time to make it happen. The bill is about buying that time and he urged its passage. He handed out material from supporters.

EXHIBIT(fcs13a06)

Keith Colbo, Montana Ambassadors, stated they are a statewide organization of business leaders and educators active in support of economic development programs over the past several years and they endorse SB 115.

Andy Poole, Administrator Business Resources Division, Department of Commerce, noted the money appropriated in the bill comes through the Department of Commerce and administered in his Division. For the most part, the money is then sent to local development corporations and others around the state so there can be a strong economic development effort in Montana. He shared written material showing results of program activity and a letter from a company in Missoula. **EXHIBIT(fcs13a07) EXHIBIT(fcs13a08)** He was in favor of SB 115 for its importance to the economy of Montana and Montana's future.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. KEITH BALES asked about deleting a statutory appropriation on page 5 line 4.

SEN. MAHLUM deferred to **Mr. Gibson**.

Mr. Gibson thought that was put in by the code commissioners. He said they didn't request it and they would get back to the committee.

SEN. BALES stated the bill doesn't take effect until 2005 and wondered why it was being heard now rather than two years from now.

SEN. MAHLUM advised it may have an effective date problem at that time. Another problem with it not being effective before then is because people in the agencies need to know if they're going to have continued funding or not. It is important to be able to tell communities that these programs will be available instead of telling them they have until a certain date and its all over.

SEN. EMILY STONINGTON asked **Mr. Gibson** about the deletion in the bill dropping state support for research and commercialization. She wondered why that was his recommendation.

Mr. Gibson advised the decision was made in the budgetary process. While standing behind that position as part of the administration's team, he stated it was a decision clearly driven by the fact that the program receives \$6.5 million funding--three and a half times greater than the combination of all the programs. He stressed it is a very important program and they would love to see that money put back, but the budget office felt it was money needed to balance the general fund for this biennium. Choices were made for programs we can afford and a commitment needs to be made to those programs for the long term.

SEN. STONINGTON asked if **Research and Commercialization** was part of that plan or dropped out at that point.

Mr. Gibson stated he was still trying to familiarize himself with the process. Under the technology section in the *Roadmap*, one of only four priorities was to get money back for **Research and Commercialization**. In the budget process, it had to be eliminated because they couldn't find the money at the point they had to present the budget. It would be one of the very first priorities, at least the critical aspect which is the **EPSCOR** match. He repeated it was a high priority item but they just couldn't find the money by the time they had to publish the Governor's budget.

SEN. STONINGTON advised that without the state commitment to the **EPSCOR** match the state will lose **EPSCOR** status. She asked if they had conversations with **EPSCOR** and whether those grant matches were now jeopardized.

Mr. Gibson stated he was on the **EPSCOR** Board. He was very familiar with the program and very committed to the program. It is extremely valuable and if it is not funded our **EPSCOR** status will be lost as of July 1, 2003 and we would have to reapply in subsequent years if we were to fund it. It is questionable if we would ever be able to restore our **EPSCOR** status. It is a very competitive, long-term program and the federal government does not like to see programs come and go--they need consistent

commitment. The program carries a very large price tag and they just couldn't find the money. If the money can be found to restore the program it is one of their top priorities. He is personally committed to do everything he can to help in that process, he stated.

SEN. STONINGTON appreciated his commitment; it was a battle she had been part of for many years and she was very disappointed to see us jeopardize our **EPSCOR** status.

SEN. JON TESTER asked about the ratio of the **EPSCOR** match.

Mr. Gibson advised the number escaped him but its big. The state contribution is \$1.5 million.

SEN. TESTER asked about deleting the \$65,000 for the **Cooperative Development Center**.

Mr. Gibson advised the bill dealt with programs funded for the next biennium. They looked at the package of bills that were in the **Department of Commerce**; there was no conscious effort to say they didn't like any of the other programs and didn't want to fund them. They're all funded for the next two years and if it was the Committee's will to amend the bill to extend those programs, they would be supportive of that.

SEN. DEBBIE SHEA asked **Mr. Gibson** about HB 76 and the **Certified Communities**.

Mr. Gibson advised the **Certified Communities Program** has a long history before it received any state funding. There was a core group of community led economic development groups or community based economic development groups that were really doing a great job. As soon as state money became available, there started to be a proliferation in the number of people applying for that money. The number of Certified Communities has doubled in the last few years. There is a defined pot of money, so there is a diluting effect. In the special session, the program was not funded for this year but HB 76 restores that and corrects the administration of the program. The money is scheduled to come back on July 1. The program is designed to give incentives to local economic development groups to not cooperate--to apply on their own for their own little pot of money and not work together--contrary to his strategy. HB 76 puts the emphasis on regional cooperation and applies larger sums of money to regional organizations that work in multi-county areas. He noted **Bear Paw** was an excellent example of how this worked in the state. HB 76 makes the program consistent with the strategy. The two bills are closely related.

SEN. SHEA asked him to define a **Certified Regional Development Corporation**.

Mr. Gibson replied the concept was to designate up to 12 lead organizations who will get larger sums of money but be required to work with all of the other smaller economic development entities in their region. **Bear Paw** is a model and the administrative rules have to be worked out. When the money comes back on July 1, HB 76 improves the program to drive regional cooperation. SB 115 would extend that from 2005 on.

SEN. BEA MCCARTHY asked about the state contribution for the EPSCOR match for last year.

Mr. Gibson advised the state's portion was \$4.65 million a year before the special session and currently \$3.56 million. The money goes to the **Research and Commercialization Board** who makes decisions on funding **EPSCOR** or funding private or independent labs not affiliated with the **EPSCOR** program. He thought it was about \$2 million going into the **EPSCOR** program specifically and the rest is used for non-**EPSCOR** match programs.

SEN. MCCARTHY asked how much federal money was involved in the match.

Mr. Gibson advised he would find out. *{Tape: 2; Side: A}*

SEN. ROYAL JOHNSON asked if there was some change in the funding allocation over the next five years.

Mr. Gibson answered there are some changes to reflect the special session; the language in **Certified Communities** reflects HB 76. The numbers are exactly the same as after the special session with those two changes.

SEN. JOHNSON questioned line 28 page 2 and also page four on the breakdown. He didn't see \$600,000 in **Department of Administration** for tax increment reimbursing.

Mr. Gibson replied that is a temporary section and their intention is to extend existing programs and not alter statutes in any other way for other programs. Things have come in and out of the bill since it was enacted and they have not changed the trajectory of that piece of the statute with their legislation. *{Tape: 3; Side: A}* They have specifically extended the programs they have listed.

SEN. JOHNSON asked where the \$600,000 goes this year, next year and the year after until this program stops.

Mr. Gibson advised he could find out.

SEN. JOHNSON questioned taking out \$300,000 for export trade enhancement in line 26 and wondered if the same would be true there.

Mr. Gibson advised some revisions were made to the numbers based on the proposed budget cuts. There was a trade promotion reduction and also \$25,000 that came out of the **Certified Communities Program**. There were some reductions reflecting the current recommendation for the next biennium and so those two numbers are lower. The Governor wants to extend those programs at those amounts for five more years.

SEN. JOHNSON asked **Mr. Gibson** if all of the programs were an integral part of the economic development package and if every one of them were funded this way.

Mr. Gibson stated he didn't understand the question.

SEN. JOHNSON said he understood **Mr. Gibson's** opening remarks to be all of these programs were an integral part of the economic development of the state of Montana.

Mr. Gibson said that was correct; the programs were consistent with the overall strategy. They would like to see the programs enhanced and funded at greater levels, but wanted to stick with an affordable level of funding over the next biennium and to extend that commitment.

SEN. JOHNSON asked **Mr. Barrett** about the tax increment situation and where that money went.

Mr. Barrett said the money was funded in the special session to cover some reimbursement needs related to bonds. The money goes to the **Department of Administration** and is divided up there. Most of it goes to the tax increment district or to **ASMI** to cover bonds. A small amount goes to cover some bonds in Missoula. The reason it terminated in 2005 was that the bonds that were being covered by it were paid off by 2005. The statute as it existed carried forward statutorily until 2005. The tax increment district in Butte would appreciate the continuance of the reimbursement because they lost a ton more money than that, but nonetheless the bonds that were the biggest concern in the special session will have been paid off at that time.

SEN. JOHNSON restated they will be rolled up and paid off in 2005.

Mr. Barrett advised that was correct and therefore the \$600,000 is not needed to protect those bonds.

SEN. RICK LAIBLE noted economic conditions in the state had necessitated the reduction in some of these programs and asked **Mr. Gibson** about the criteria used to eliminate or reduce programs.

Mr. Gibson advised it was an involved process. The first criteria was if we could afford a certain level of funding for these programs. That was why **Research and Commercialization**, larger in magnitude than the sum of all the other programs, came off the list. The next criteria used was the need to sustain programs and which programs can survive with less money. One of the things that came out was \$175,000 in his office. They would have done good things with it but they can survive. Without the money, most of those programs would die. They wanted to keep infrastructure in place so that when we recover from the two year short term fiscal situation we would not have to start over.

SEN. TRUDI SCHMIDT asked **Mr. Mark Simonich, Department of Commerce**, if the **Research and Development Program** is run through his office.

Mr. Simonich advised the **Research and Commercialization Board** is attached to the **Department of Commerce** for administrative purposes.

SEN. SCHMIDT asked about leveraging federal dollars.

Mr. Simonich advised it was similar to any other federal program; the federal government makes funds available for a variety of things and almost always requires some match. Depending on the federal program it may run anywhere from a 10% to a 90% match. Leveraging is taking some state money and using it to leverage other money coming in for research. The money can also be used to leverage private foundation money into the research.

SEN. SCHMIDT asked about the time frame.

Mr. Simonich advised they don't set aside the money specifically for **EPSCOR** match. The money is made available to the **Research and Commercialization Board** which accepts and reviews all applications. The research projects that come into the Board may be projects that the **University System** is targeting for the **EPSCOR** or for some other type of research. He didn't have the

information available to be able to tell her exactly how much of the state money ended up being matched. He indicated he could have that for the committee by the next day. **SEN. SCHMIDT** said she would like to have that.

SEN. MIKE COONEY asked **Tyler Duncan** about amending the bill to include the **Montana Cooperative Extension Center** program and asked for some of its activities and their impact.

Mr. Duncan, advised they were working with over 100 individuals on cooperative projects. One is a bio-diesel project that would bring \$90 million to our economy and create 30 primary jobs and two to three secondary jobs for every primary job. They have two grants for that project and are in the middle of a feasibility study and the identification of locations throughout Montana that would work for procurement of oil seeds and distribution. They are working with several natural beef projects. He gave a complete list of the projects and economic impacts to the secretary. **EXHIBIT(fcs13a09)**

SEN. COONEY inquired if **SEN. MAHLUM** was agreeable to the amendment restoring \$65,000.

SEN. MAHLUM indicated he would have no problem with it--whatever we can do for our local communities, we want to make sure we do. What's good for our communities is good for the people of Montana.

SEN. JOHNSON asked **Steve Holland** about the total amount of money that the **Montana Manufacturing Extension Center** in Bozeman collected in grants and other in 2002.

Mr. Holland replied that their total budget was about \$1.1 million--\$200,000 from the state and the remainder from other sources--about \$.5 million from the federal grant and more than \$.25 million from clients and fees they charge for their services.

SEN. JOHNSON asked **Mr. Simonich** about the \$600,000 allocation.

Mr. Simonich advised it was allocated two years ago. The \$600,000 referred to is in a temporary section of law, Section 1, and that section terminated June 30, 2001. He stated it was a one-time appropriation. When the law was amended to further extend for five years, it was extended by underlining the programs that were currently funded. The \$600,000 has already been reallocated two years ago and it would have been general fund money.

CHAIRMAN ZOOK advised exploring that further and **SEN. JOHNSON** agreed.

SEN. KEITH BALES asked about the deletion he mentioned earlier.

Mr. Simonich indicated the strikeout was not something the administration asked for, it was simply a clean up that the code commissioner did. In order to make a statutory appropriation there is a requirement to specify the appropriation and the amount, it also has to list that specific statute in 17-7-502--statutory appropriations. The one the code commissioner struck out references a section of law that deals with local government infrastructure--the **Treasure State Endowment Program**. There was a statutory appropriation that appropriated \$425,000 per biennium for two bienniums to the **Department of Commerce**. That statutory appropriation ends at the end of 2005. He guessed that the code commissioner saw they were not attempting to extend that statutory appropriation and anticipated it would end at 2005. The temporary section of law goes away but it still remains in the bill as an authorized statutory appropriation.

SEN. MAHLUM closed on the bill. The bill is about extending statutory appropriations for an additional five years--not for government spending but to help Montana entrepreneurs to forge ahead with their business ventures and plans. The funding will help keep Montana citizens off the unemployment rolls to a certain extent. A small amount of state funds is leveraged to help all of our communities throughout the state of Montana.

HEARING ON SB 128

Sponsor: **SEN. DALE MAHLUM, SD 35, Missoula**

Proponents: **Steven Tesinsky, Administrator Department of Justice Information Technology Services Division**

Opponents: **None.**

Opening Statement by Sponsor:

SEN. DALE MAHLUM, SD 35, Missoula, opened on SB 128 which would create a state special revenue account for criminal history record dissemination. The **Criminal Justice Information Services Bureau** performed over 60,000 name based background checks and over 28,000 fingerprint background checks last year, including both criminal and civil background checks. Most of the background checks that the bureau performs are for choosing the right staff for public health, child care, senior citizen care and child volunteer positions. For non-criminal background

checks, a fee of \$8 is charged for both name based and fingerprint based checks. The FBI charges an additional \$26 to process fingerprint background checks. The fees charged by the bureau have gone into the general fund. Revenue was \$182,000 in FY02 and is expected to be about \$358,000 in FY03 if SB 128 is passed. All personal service and operating costs are supplied from the general fund. The staff is the same as five years ago and the volume has grown 78%. Last year fingerprints based background checks grew 48% from the previous year. Homeland security will make this increase grow substantially higher as well as increased concern for public safety in the areas of child and senior citizen volunteer programs and corporate and governmental concerns of information assets. The bureau was able to offload work to other federally funded staff but the funding will be gone at the end of this fiscal year. The special revenue account will be funded by background check fees and used by the department to keep up with a growing demand for background checks, for adding staff, appropriating operating expenditures and to create an official non-criminal background check program to assure compliance with all state and federal statutes.

Proponents' Testimony:

Steven Tesinsky, Administrator Department of Justice Information Technology Services Division, advised the bureau is the central depository in Montana for criminal fingerprints and criminal history information and processes that information for the FBI and state and federal law enforcement. Due to the similarity, the bureau is unofficially fulfilling Montana's statutory obligations to provide criminal justice information to non-criminal justice users. They provide name based and fingerprint based checks for volunteer and health care organizations. The magnitude of this activity has grown. The bureau kept up with the growth by implementing a new computer system in 2001. Changes in law have reduced the amount of criminal information workload and some of the backlog has been offloaded to other staff within the bureau. The staff is the same as when the bureau was funded for only background checks for law enforcement. The federal funding for staff is ending. **{Tape: 2; Side: B}** A fund switch requested for the overflow staff was rejected because of budget difficulties. Background checks are expected to grow even more because of state and federal legislation. The "Patriot Act" legislates background checks for all those driving hazardous materials. If SB 128 does not pass, **DPHHS, OPI, Montana Lottery, Department of Labor and Industry, Military Affairs, Military recruiters, the Montana State Bar, Little League Baseball, the Boy Scouts and Girl Scouts of America, Organized Youth Soccer**, private investigators and most recently private sector positions of trust will be impacted. SB 128 creates a mechanism for the

bureau to continue to provide this critical public safety service by establishing a state special revenue account to be used to managing background checks more efficiently and enables the formalization of Montana's program to process the growing number of authorized requests for non-criminal justice use of criminal justice information. The service has never been funded; they need processes and funding in place. As volume grows, there will be an increase in fees and when additional staff and operating expenses are needed it will come out of the special revenue account because the bill provides trigger mechanisms to do so. They are authorized to bring on three people immediately. Part of the expenditures coming out of the general fund would come out of the state special revenue account as well. They do not decide who needs background checks. Additionally, they recommend fingerprint background checks as being the most accurate. He noted they do not perform screening as a result of background checks.

Opponents' Testimony: None.

Questions from Committee Members and Responses:

SEN. BEA MCCARTHY asked if they were coordinating with OPI for the fingerprinting of new teachers.

Mr. Tesinsky advised they were helping with the process.

SEN. JON TESTER asked about the "Patriot Act" and wondered if there was federal money for fingerprinting to help offset the general fund.

Mr. Tesinsky advised there was no specific money for that but they were actively watching.

SEN. DEBBIE SHEA asked who else does fingerprinting in the state.

Mr. Tesinsky advised fingerprinting all over the state is conducted by local law enforcement; matching of fingerprints is exclusively done by the bureau.

SEN. SHEA asked about the facility out by the Helena airport.

Mr. Tesinsky advised that **TSA** at the airport is now conducting their own fingerprints.

SEN. SHEA stated her sister was adopting a child from Kasastan and she wondered if the bureau did the work on that.

Mr. Tesinsky advised the INS facility would do that. Some entities have provisions to talk directly to the FBI but not everyone is authorized to get a background check at the federal level.

Closing by Sponsor: **SEN. MAHLUM** closed on the bill.

ADJOURNMENT

Adjournment: 6:46 P.M.

SEN. TOM ZOOK, Chairman

PRUDENCE GILDROY, Secretary

TZ/PG

EXHIBIT (fcs13aad)